

FILED

4:06 pm Jan 31 2020

**Clerk U.S. District Court
Northern District of Ohio
Cleveland**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN THE MATTER OF A COMPLAINT
AND AN ARREST WARRANT FOR
ALLEN MARTIN KENNA

) CASE NO: 1:20MJ2022
)
) MAGISTRATE JUDGE
) DAVID A. RIUZ
)
) **MOTION TO BE FILED UNDER SEAL**
)

Now comes the United States of America, by and through counsel, Justin E. Herdman, United States Attorney, and Duncan T. Brown, Assistant United States Attorney, and respectfully move this Court for an order sealing the case and all accompanying documents including, but not limited to: the complaint, affidavit and any attachments sworn by Special Agent Tyler J. Rempel of the Federal Bureau of Investigation in support of the arrest warrant issued in the instant case for the following reasons.

1. The government has been engaged in an ongoing investigation being conducted by the Federal Grand Jury for the Northern District of Ohio focused upon potential violations of Title 18, United States Code, Sections 844(i), Attempted Use of an Explosive Device, and 875(c), Interstate Communication of Threats, which investigation would be compromised by the revelation of the extensive contents of the affidavit herein submitted.

2. In addition, the contents of the Complaint and Affidavit are so particular that their disclosure to the subject of the arrest warrant would identify the underlying sources of information given to the affiant.

3. The United States further avers that sealing of the complaint, arrest warrant, affidavit, and any attachments is needed to protect not only the identity of witnesses who have

heretofore cooperated with the United States in its investigation but also to prevent the destruction of evidence by the subjects of the investigation and to protect disclosure of information which may otherwise keep potential witnesses from coming forward to cooperate.

The courts have inherent power, as an incident of their constitutional function, to control papers filed with the courts within certain constitutional and other limitations. United States v. Agosto, 600 F.2d 1256, 1257-58 (9th Cir. 1979) (rejecting and reversing district court's holding that district courts lack authority to seal affidavit and remanding issue to district court for factual consideration); see also Shea v. Gabriel, 520 F.2d 879, 882 (1st Cir. 1975) (dismissing appeal concerning search warrant where district court carefully balanced government's interest in secrecy to protect its on-going investigation against temporary loss to property-owner).

Respectfully submitted,

JUSTIN E. HERDMAN
United States Attorney

By:


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Executed on this 31st day of January 2020.